

1 JOSEPH P. RUSSONIELLO, CSBN 44332  
 United States Attorney  
 2 JOANN M. SWANSON, CSBN 88143  
 Assistant United States Attorney  
 3 Chief, Civil Division  
 MELANIE L. PROCTOR, CSBN 228971  
 4 Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055  
 San Francisco, California 94102  
 6 Telephone: (415) 436-6730  
 FAX: (415) 436-7169

7 Attorneys for Defendants

9  
 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION

12 RAJVINDER SINGH, )  
 Plaintiff, ) No. C 07-4772 JW  
 13 )  
 14 v. )  
 15 MICHAEL CHERTOFF, Secretary of ) STIPULATION TO TRANSFER  
 Homeland Security; EMILIO T. GONZALES, ) PROPOSED ORDER  
 16 Director of the U.S. Citizenship and Immigration )  
 Services; ROSEMARY MELVILLE, District )  
 17 Director, U.S. Citizenship and Immigration )  
 Services; FRANCIS D. SICILIANO, Officer in )  
 18 Charge of the San Jose Office of the U.S. )  
 Citizenship and Immigration Services, )  
 19 )  
 Defendants. )  
 20 \_\_\_\_\_)

21  
 22 This is an action arising under 8 U.S.C. § 1447(b). Plaintiff, a resident of Tracy, California, alleges  
 23 that he attended an interview on his naturalization application on November 15, 2004, but the  
 24 application remains unadjudicated.

25 Pursuant to 8 U.S.C. § 1447(b), if there is failure to make a naturalization determination 120 days  
 26 or more after the date of a naturalization examination, the applicant may apply to the United States  
 27 District Court for the district in which the applicant resides for a hearing on the matter.

28 Tracy, California is located in San Joaquin County, in the Eastern District of California. 28 U.S.C.

1 § 84(a). Accordingly, venue for this action is proper in the Eastern District, but not in this District.

2 The parties to this action, by and through their attorneys, hereby stipulate and request of the Court  
3 that this action should be transferred to the Eastern District of California pursuant to 28 U.S.C.

4 § 1406(a). Section 1406(a) provides:

5 The district court of a district in which is filed a case laying in venue in the wrong division or  
6 district shall dismiss, or if it be in the interest of justice, transfer such case to any district or  
division in which it could have been brought.

7 Because venue is proper only in the Eastern District, the parties believe that the interests of justice  
8 require that this action be transferred to the United States District Court for the Eastern District of  
9 California.

10 Dated: January 28, 2008

Respectfully submitted,

11 JOSEPH P. RUSSONIELLO  
United States Attorney

12  
13 /s/  
14 MELANIE L. PROCTOR<sup>1</sup>  
Assistant United States Attorney  
15 Attorneys for Defendants

16 Dated: January 28, 2008

17 /s/  
18 KANWAL M. SINGH  
Attorney for Plaintiff

19 **ORDER**

20 The foregoing stipulation is approved and this action is hereby transferred to the United States  
21 District Court for the Eastern District of California, the judicial district in which this case should have  
22 been brought. IT IS SO ORDERED.

23 Date:

24 JAMES WARE  
United States District Judge

25  
26  
27  
28 <sup>1</sup>I, Melanie L. Proctor, hereby attest that I have on file all holograph signatures for any  
signatures indicated by a "conformed" signature (/S/) within this efiled document.

STIPULATION TO TRANSFER

C07-4772 JW